UNITED STATES DISTRICT COURT FOR THE DISTRICT OF VERMONT

THE ESTATE OF RICHARD E. : HITCHCOCK, by it representative, : Richard E. Hitchcock, Jr., and : JANE HITCHCOCK, : Plaintiffs, :

:

v. : File No. 1:05-CV-214

:

RICHARD P. TONINO, M.D., :
Defendant. :

ORDER

The Magistrate Judge's Report and Recommendation ("R&R") was filed September 1, 2006. (Paper 51.) After <u>de novo</u> review and absent timely objection, the Report and Recommendation is AFFIRMED, APPROVED and ADOPTED. <u>See</u> 28 U.S.C. § 636(b)(1). The defendant's converted motion for partial summary judgment (Paper 13) is DENIED.

The matter is hereby returned to the Magistrate Judge for further proceedings. SO ORDERED.

Dated at Brattleboro, in the District of Vermont, this 20th day of September, 2006.

/s/ J. Garvan Murtha J. Garvan Murtha United States District Judge